

## **REMARKS**

### **Status of the Claims**

Claims 1, 3-6 and 16-23 are pending in this application.

Claims 1, 3-6 and 16-19 are rejected.

Claims 20-23 are allowed.

Claim 1 has been amended. Support for this amendment can be found throughout the specification, claims, and drawings, as originally filed.

### **Drawing Objections**

The drawings have been objected to as failing to comply with 37 CFR 1.84 (p)(4) because the reference quote "50" has been used to designate both a spigot and a stud. The Examiner stated that corrected drawings sheets in compliance 37 CFR 1.121(d) are required in reply to the Office Action to avoid abandonment of the application.

Applicant has amended paragraph 4 of the specification to only include the element of a spigot 50, the reference to the word "stud" has been removed. Applicant believes that this objection has been overcome and that no new matter has been added.

### **Rejection of Claims 1, and 3-6 Under 35 U.S.C. § 112**

Claims 1, and 3-6 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner asserted that the claims contain subject matter which was not described in the specification in such as a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. The

Examiner also stated that the specification, as originally filed, does not provide support for a housing pivotally mounted on a base for angular movement about a first pivot axis and a second pivot axis, as recited in claim 1.

Applicant has amended claim 1 to include the element of a housing pivotally mounted on the base for angular movement about a first pivot axis, and also to include a reflective member mounted in the housing for reflecting an image, said reflective member pivotable about a second pivot axis. Applicant believes that this rejection has been overcome, and that no new matter has been added.

#### **Rejection of Claims 16-20 Under 35 U.S.C. § 103**

Claims 16-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,981,349 to Tamiya et al. (hereafter "Tamiya '349") in view of Japanese Patent No. 03-224838 to Shibuya et al. (hereafter "Shibuya '838") or U.S. Patent No. 6,204,753 to Schenk et al. (hereafter "Schenk '753"). This rejection is respectfully traversed. Applicant requests reconsideration of the rejection based on the following remarks.

The Applicant notes that the Examiner listed claims 16-20 as being rejected, but also stating that claims 20-23 were allowed. Applicant believes that the Examiner intended to reject claims 16-19, while allowing claims 20-23, and will direct the following remarks towards rejection of claims 16-19.

The Examiner had indicated that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the controller of Shibuya '838 or Schenk '753 to include a controllable swing speed adjustment in order to avoid impact or collision with an object or body which may damage the exterior rearview assembly. The Examiner also addressed the limitation of claim 16 having a counter,

stating that it is well known to use counters in association with an electric motor in the same field of endeavor for the purpose of sensing and controlling the positional orientation of the mirror. The Examiner stated that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sensor and/or motor of Shibuya '838 or Schenk '753 to include a counter in order to sense and control the positional orientation of the reflected member (i.e., mirror housing) so as to prevent overloading and damage to said motor.

In order to establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the applied reference must teach or suggest all the claim limitations. In order for the proposed references to be relied upon, a person having ordinary skill in the art at the time of the invention must have been motivated to modify the references based on the teaching of those references.

Claim 16 includes the element of a counter for counting the number of revolutions of the electric motor. The proposed combination of Tamiya '349 in view of Shibuya '838 or Schenk '753 does not teach or suggest these elements. Tamiya '349 teaches or suggests a mirror assembly 10 having a tilting movement control mechanism 60 for automatically de-energizing the motor M when the rearview mirror assembly 10 reaches the rearwardly tilted position R from the normal position N or reaches the normal position N from the rearwardly tilted position R. *Col. 6, Lines 50-55*. Tamiya '349 also teaches or suggests a set of:

cam switches 67,68 are positioned as shown in Figure 8 when the rearview mirror assembly 10 is in the normal position N. When the motor M is energized to tilt the rearview mirror assembly 10 rearwardly from the normal position N, the base plate 61 starts to rotate counter clockwise, and at the same time the balls 19 start to move from the slanted surfaces 20 over the horizontal surfaces 18 towards the slanted surfaces 21. When the rearview mirror assembly 10 is turned about 60 degrees and reaches the rearwardly tilted position R, the cam switch 67 is turned off as described above, and the motor M is automatically de-energized. When the motor M is energized again to return to the rearview mirror assembly 10 from the rearwardly tilted position R to the normal position N, the cam switch 68 is turned off when the rearview mirror assembly 10 has turned about 60 degrees. The rearview mirror assembly is now stopped in the normal position N and the motor M is de-energized.

*Col. 7, Lines 31-49.* Schenk '753 teaches a distance detection or proximity sensor 3, which detects the distance or approach of an object, for example, a wall 8 and generates the corresponding detection signal 4, is integrated in side view mirror housing 1. *Col. 3, Lines 2-5.* Schenk '753 also teaches or suggests that if control device 7 has detected a collision hazard of side view mirror housing 1 with object 8, it sends an actuating signal 5 to actuating mechanism 2 to fold side view housing 1. *Col. 3, Lines 33-36.*

Tamiya '349 and Schenk '753 both fail to teach or suggest a counter for counting the number of revolutions of the electric motor as set forth in claim 16 of the present invention. The mirror assembly as taught by Tamiya '349 uses a set of cam switches which automatically shut off the motor when the mirror is in the correct position. The mirror assembly of Tamiya '349 does not teach or suggest a counter. Also, the control device of Schenk '753 which receives a detection signal is for sensing the position of the mirror. There is nothing in the proposed combination of Tamiya '349 and Schenk '753 that teaches or suggests a counter for counting the number of revolutions of the electric motor.

Additionally, Tamiya '349 in view of Shibuya '838 cannot be combined to render the present invention obvious. Shibuya '838 teaches or suggests a side mirror is turned about a turning axis fixed to a body with a turning means 501. See *Shibuya '838 Abstract*. Also, an obstacle detection means 502 detects the existence or non-existence of an obstacle within the predetermined range of the side mirror. See *Shibuya '838 Abstract*. The combination of Tamiya '349 in view of Shibuya '838 does not teach or suggest a counter for counting the number of revolutions of the electric motor, as set forth in claim 16 of the present invention.

For at least these reasons, applicant submits that claim 16 is allowable over the applied art, because at least one of the three criteria for establishing a *prima facie* case of obviousness has not been met. Claims 17-19, which are dependent upon claim 16, are likewise allowable over the applied art, taken singly or in combination since they include all of the subject matter of the base claim, which is believed to be in condition for allowance. Withdrawal of the rejection is respectfully requested.

In regard to the Examiner's assertion that it is well known to use counters in association with an electric mirror in the same field of endeavor for the purpose of sensing and controlling the positional orientation of the mirror, Applicant notes that Examiner has not made any rejections regarding claims 16-19 showing a mirror which has an electric motor and uses a counter for controlling the position of the motor. Applicant asserts that the use of a counter for an electric motor in a mirror as set forth in claims 16-19 of the present invention is a novel, and unobvious aspect of the present invention.

**Allowable Matter**

Applicant kindly thanks the Examiner for the allowance of claims 20-23.

**CONCLUSION**

It is respectfully submitted that in view of the above amendments and remarks the claims 1, 3-6, and 16-23 as presented, are patentably distinguishable because the cited patents, whether taken alone or in combination, do not teach, suggest or render obvious, the present invention. Therefore, Applicant submits that the pending claims are properly allowable, which allowance is respectfully requested.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 364-4300 if any unresolved matters remain.

Respectfully submitted,

WARN, HOFFMANN, MILLER & LALONE, P.C.  
Attorneys for Applicant(s)

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By: 

Philip R. Warn  
Reg. No. 32775

P.O. Box 70098  
Rochester Hills, MI 48307  
(248) 364-4300

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